UNITED STAT℠ DEPARTMENT OF COMMERCE
Pat nt and Trademark Offic

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR		ATTORNEY DOCKET NO.
09/086,821	05/29/98	LARA	M	ATV-004

TM11/1016

PATENT ADMINISTRATOR
TESTA HURWITZ AND THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

EXAMINER
SALAD, A

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 10/16/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

☒ Responsive to communication(s) filed on _Jul 26, 2000_

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters,   **prosecution as to the merits is closed** in accordance with the practice under   _Ex parte Quayle_, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire _____3___ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) _1-20_ _____ is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) _1-20_ _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None   of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____10___

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Response to Amendment

1.   The Amendment filed on 07/26/2000 has been entered and made of record.

2.   Applicant's arguments with respect to claims 1-20 have been considered but are

moot in view of the new ground(s) of rejection.

3.   This application has been reviewed.Original claims 1-20 are pending.The rejection cited

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colby et al

U.S. Patent No. 6,006,264 as applied to claim 1 above, and further in view of Wolf U.S. Patent

No. 6,101,508.

As per claim 1, 15 and 20, Colby et al discloses a system for distributing browser web

pages (resource) requests among two or more web servers, comprising:

monitoring the web servers to determine if a predetermined condition (load metrics)

exist at one or more of the web servers (see abstract, see also col. 5, lines 23-42, col. 6, line 63,

and col. 9, lines 1-20);

if the predetermined condition does exist at least one of the web servers (see abstract,

see also col. 5, lines 23-42, col. 6, line 63, and col. 9, lines 1-20).

Colby et al does not explicitly disclose redirecting by that web server at least one of the browser

request from that web server to another one of the web servers such that the browser requests the

web page from another one of the web browsers.

Wolf in similar art discloses a web server management system, including the step of redirecting

by one of the web server at least one of the browser request from that web server to another one

of the web servers such that the browser requests the web page from one of the web servers (see

col. 25, lines 52 to col. 26, line 9). Further, Wolf discloses based on the utilization of a specific

server which receives browser requests from plurality of client, browser request may be

redirected to another server with minimum load. Therefore, it would have been obvious to one

skilled in the art presented with the teaching of Wolf to modify Colby et al by employing the

teaching of Wolf such that browser request can be redirected from over loaded server to least

loaded server to avoid request delay and network bottleneck.

In considering claims 2-5, 7, 8, 17 and 18, Wolf discloses a system of distributing requests

for web pages among two or more web servers, including the monitoring the predetermined

condition comprising:

CPU utilization, memory utilization, request queue delay, and queue request length (see col.

11, line 64 to col. 12, line 15, and col. 20, line 51 to col. 21, line 15).

In considering claim 6, Colby et al further discloses a system, wherein the monitoring step

comprises monitoring the system load of the host running the web server (see col. 6,

lines 42-63).

In considering claims 9, 10, 11 and 16, Colby et al further discloses a system wherein the

transferring step comprises transferring only if the request page is for one predetermined pages

(frequently accessed pages or hot content or cached pages) (see col. 9, lines 1-20, col. 11, lines

20-60).

In considering claims 12, 13, Colby et al discloses a system, wherein the transferring step

comprises:

determining whether the web page (content) is included in a list of pages that have state

(recently accessed or cached) (see col. 12, lines 14-50);

transferring only if the web page is not included in the list (see col.14, lines 5-65).

In considering claim 14, Colby et al further discloses a system wherein the predetermining

condition comprises a failure (see col. 3, lines 37-45).

In considering claim 19, Colby et al further disclose a system including web server interface,

wherein the interface directs the web server to transfer the at least one request (see fig. 1c).

5.　　　Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

CONCLUSION

6.   The prior art made of record and relied upon is considered pertinent to the applicant's

disclosure.

7.   Any inquiry concerning this communication or earlier communictations from the examiner

should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441.** The

examiner can normally be reached on **Monday to Friday from 8:30AM to 5:00PM.** If attempts

to reach the examiner by telephone are unsuccessfull, the examiner's superviser, **Glen Burgess,**

can be reached at **(703)305-4792.**Any inquiry of a generel nature or relating to the status of this

application or proceeding should be directed to the receptionist whose telphone number is

(703)305-3900.

AES

10/10/00

GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700